

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMONT CALHOUN,

Plaintiff,

v.

DELA CRUZ, et al.,

Defendants.

No. 2:20-cv-2209 DAD DB P

ORDER

Plaintiff has requested an extension of time of ninety days to file a reply to defendants' December 21, 2022, opposition to plaintiff's December 19, 2022, motion to amend. Additionally, plaintiff has requested an extension of time of ninety days to file a sur-reply to defendants' December 19, 2022, reply in support of the July 28, 2022, motion for summary judgment. Defendants have filed an opposition to plaintiff's request for leave to file a sur-reply.

As to the motion for summary judgment, there is no right to file a further sur-reply because the motion for summary judgment is already fully briefed with the motion, plaintiff's opposition, and defendants' reply brief. See Local Rule 230(l). Nevertheless, district courts have discretion to either permit or deny a further sur-reply. See U.S. ex rel. Meyer v. Horizon Health Corp., 565 F.3d 1195, 1203 (9th Cir. 2009) (affirming district court's refusal to accept untimely materials it found constituted an inequitable sur-reply). Although courts generally grant leniency

1 to pro se litigants, that lenience does not extend to permitting sur-replies as a matter of course.
2 Garcia v. Biter, 195 F. Supp. 3d 1131, 1134 (E.D. Cal. 2016). This court is not generally inclined
3 to permit sur-replies absent an articulation of good cause why such leave should be granted. See
4 id.

5 Here, plaintiff does not set forth any reasons why he needs to file a sur-reply as to the
6 motion for summary judgment. Accordingly, the request for extension of time will be denied as to
7 the filing of a sur-reply to defendants' December 19, 2022, reply in support of their motion for
8 summary judgment.

9 The court will grant plaintiff the requested extension of time to file a reply to defendants'
10 opposition to the motion to amend.

11 Good cause appearing, IT IS HEREBY ORDERED that:

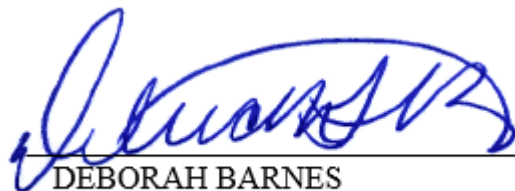
12 1. Plaintiff's motion for an extension of time (ECF No. 62) is granted in part and denied
13 in part, as set forth below.

14 2. Plaintiff is granted ninety days from the date of this order in which to file a reply to
15 defendants' opposition to plaintiff's motion to amend.

16 3. Plaintiff's request for an extension of time of ninety days to file a sur-reply to
17 defendants' reply in support of their motion for summary judgment is denied.

18 Dated: January 18, 2023

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DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE